

analogous to those that a BOC provides to itself, its customers or its affiliates, the nondiscrimination standard requires the BOC to offer requesting carriers access that is equivalent in terms of quality, accuracy, and timeliness.”⁹⁷

Under the two-step analysis utilized by the Commission – (1) “whether the BOC has deployed the necessary systems and personnel to provide sufficient access to each of the necessary OSS functions and whether the BOC is adequately assisting competing carriers to understand how to implement and use all of the OSS functions available to them” and (2) “whether the OSS function that the BOC has deployed are operationally ready, as a practical matter”⁹⁸ – Verizon fails on both counts. Rhythms’ experiences with Verizon’s OSS for DSL and line sharing do not demonstrate that Verizon has “deployed the necessary systems and personnel.” Neither does the evidence suggest that “as a practical matter,” Verizon’s OSS is operationally ready.

B. Verizon Has Not Implemented the Necessary Support Systems and Personnel to Provide CLECs with Non-Discriminatory Access to Operations Support Systems and Processes.

1. Problems with Verizon’s GUI Severely Hamper CLECs’ Ability to Compete

Rhythms uses both Verizon’s web GUI and EDI interface in Massachusetts for critical OSS functions, including pre-ordering and ordering for line sharing.⁹⁹ Because Verizon’s GUI regularly is reported as being down or overloaded, Rhythms is constantly impeded in its ability to effectively service its customers at those times.¹⁰⁰

Although only using the EDI interface since April, 2000, Rhythms has experience difficulties with this system as well. First, Rhythms received several files deposited into its

⁹⁷ *Id.* at ¶ 85 (citations omitted).

⁹⁸ *Id.* at ¶ 87.

⁹⁹ Williams Declaration at ¶ 22.

VAN mailbox erroneously.¹⁰¹ Verizon's response was to tell Rhythms to ignore them. More troubling, however, is that again with EDI, Rhythms orders are rejected, this time for defective characters. Rhythms has opened up trouble tickets with Verizon on this issue, but Verizon has yet to perform a root-cause analysis to isolate the source of the problems, leaving Rhythms with no explanation for its customers as to why their orders are delayed.¹⁰²

2. Verizon Still Uses Manual Processes for Handling Data CLECs' Orders

While Verizon may claim that it has made recent systems enhancements that permit flow through of DSL orders, Rhythms' experience reveals that the systems for both DSL and line sharing are still very much manual. From Rhythms perspective, the DSL provisioning process is manual because of the numerous queries Rhythms receives back from the Verizon TISOC on DSL orders.¹⁰³ While Verizon may have implemented flow-through capability for some DSL order types, its OSS for line sharing is virtually nonexistent. To the best of Rhythms' knowledge, Verizon's systems will not be upgraded to handle line shared orders until some time during the first half of 2001.¹⁰⁴ Until Verizon's systems for both DSL and line sharing provide Rhythms with order flow through, Rhythms will be hobbled in its ability to services its customers quickly and effectively because orders will be delayed unnecessarily. As has been discussed by parties and the FCC in prior orders, lack of flow through contributes to delay in provisioning. For example, because Rhythms' orders are almost entirely manual, Rhythms does not receive a firm order comittment ("FOC") from Verizon for at least 24 hours. If Verizon had upgraded its systems to provide for flow through capability for data orders, Rhythms would be receiving FOCs back in two hours. In addition, human intervention leads to errors. Verizon may

¹⁰⁰

Id.

¹⁰¹

Id. at ¶ 23.

¹⁰²

Id.

¹⁰³

Id. at ¶ 24.

state that the manual processes in place today do not delay the provisioning process, but Rhythms disagrees. Verizon's performance data suggests otherwise and, as discussed below, Rhythms' experience to date with line sharing demonstrates that the manual steps do indeed result in provisioning delays. Verizon must commit to a plan whereby all DSL order types, including line shared orders, flow through by a date certain.

3. Verizon Resists Expanding TISOC Hours, Which Impedes CLECs' Ability to Offer Competitive Services

Because Verizon's DSL and line sharing OSSs are not automated, Rhythms is more reliant on the Verizon TISOC than it would otherwise be if orders flowed through the system. Thus, Verizon's reluctance to expand the hours of its TISOC is a significant issue for Rhythms.¹⁰⁵ The TISOC's hours are 8am-6pm eastern standard time and Rhythms and other CLECs have asked that the evening hours be extended to at least 8pm because CLECs' provisioning centers are located in different time zones. Verizon's resistance to expand the hours of the TISOC, like its failure to implement flow through capability for all DSL orders, results in provisioning delays. For example, Rhythms submits an order on a given morning and the TISOC queries back to Rhythms that afternoon. If Rhythms must return that call anytime past 4:00pm Denver time, Verizon's TISOC is closed – as it is after 6:00pm on the East Coast.¹⁰⁶ Because Rhythms' business day extends for several hours beyond 6:00pm, the limited hours raise a real problem for Rhythms.¹⁰⁷ In addition, many of Rhythms' customers are residential, and the end of the "business" day is not the end of the day for them.

¹⁰⁴ *Id.*
¹⁰⁵ *Id.* at ¶ 26.
¹⁰⁶ *Id.*
¹⁰⁷ *Id.*

Covad specifically requested that Verizon expand the hours of the TISOC in a letter to Verizon in July 2000.¹⁰⁸ Verizon denied Covad's request shortly thereafter. During the technical sessions before the Massachusetts DTE, Rhythms and other CLECs again raised this issue¹⁰⁹ and Verizon's position apparently has not changed.

Similar to the issue of flow through, Verizon may attempt to downplay the significance of the TISOC's hours and point to its performance data to show that DSL orders are being completed on time. The measurements used to calculate the percent on time metrics, however, do not account for the back and forth time between the TISOC and the CLEC. The interval for the metric only commences once Verizon receives what it determines to be a valid order from a CLEC. The queries between the TISOC and the CLEC could go back and forth for days and this would not be captured in the metric.

Until Verizon automates its systems for all DSL order types, including line sharing, extension of the TISOC hours by a few hours would help alleviate this problem and would reduce provisioning delays. The fact that Verizon has refused this request suggests volumes about its motivation to assist its wholesale customers.

4. Verizon Personnel Require Training to Address Data CLEC Issues

Verizon's Helpdesk, which is a CLEC's first point of contact for assistance with troubles in the Verizon region has been a consistent source of problems for Rhythms. Before it recently was transformed into the Wholesale Helpdesk, Verizon's Helpdesk was staffed inadequately. Information was reported incorrectly, call-backs were infrequent at best, and when Rhythms would finally get to speak with someone regarding the trouble, they would often report

¹⁰⁸ *Id.* at ¶ 25.

¹⁰⁹ Tr. 4804-05.

that the trouble ticket information was incorrect and needed to be re-coded.¹¹⁰ Since the transition from Helpdesk to Wholesale Helpdesk, Rhythms is still experiencing problems receiving callbacks in a timely manner and is not receiving root-cause analysis of these problems.¹¹¹

Since commencing line sharing, Rhythms has also found that Verizon's representatives in its CLEC centers (the TISOCs, RCMC, and RCCC) are not knowledgeable about line sharing.¹¹² When Rhythms submitted a trouble report on one line shared order in the Verizon South region, Rhythms was told by a Verizon representative, that line sharing would not be available in Verizon South until December, 2000.¹¹³ In discussions with Rhythms, Verizon admits that it has some issues to work out with its CLEC centers. Verizon has stated that it is more comfortable with its centers in the North and less comfortable with its centers that serve the South. While Rhythms agrees that Verizon has more work to do in the South, its centers that service New York and Massachusetts need further training as well.

These problems suggest that Verizon has not deployed the necessary personnel (or trained them at the very least) to fulfill its obligations to provide nondiscriminatory OSS functions.

5. These OSS Problems are Indicative of a Greater Problem

Each of these OSS issues is a very real problem for Rhythms that has very real implications in terms of providing Massachusetts customers with advanced services.¹¹⁴ The mere fact that each of these issues easily could be solved by Verizon, but has yet to be solved despite CLEC requests, is evidence of a serious problem with Verizon's overall commitment to

¹¹⁰ Williams Declaration at ¶ 27.

¹¹¹ *Id.*

¹¹² *Id.* at ¶ 28.

¹¹³ *Id.*

the wholesale arena. Most importantly, these OSS issues reveal that Verizon is not providing the “necessary systems and personnel to provide sufficient access to each of the necessary OSS functions” and is not “adequately assisting competing carriers to understand how to implement and use all of the OSS functions available to them.”¹¹⁵ Moreover, “as a practical matter” Verizon has not demonstrated that its OSS is operationally ready.¹¹⁶ The Commission, therefore, must not approve Verizon’s Application until this issues are remedied.

IV. CHECKLIST ITEMS 2 & 4 – LOCAL LOOPS

A. Verizon Must Demonstrate That it Provides xDSL Loops in a Nondiscriminatory Manner

The *UNE Remand Order* reiterates and expands upon the Commission’s well-established determination that the obligation to provide unbundled access to loops encompasses the obligation to provide access to xDSL-capable loops, regardless of whether those loops are served by remote terminals or Digital Loop Carrier (“DLC”) facilities.¹¹⁷ Specifically, the *UNE Remand Order* modified the definition of a loop

to include all features, functions, and capabilities of the transmission facilities, including dark fiber and attached electronics (except those used for the provision of advanced services, such as DSLAMs) owned by the incumbent LEC, between an incumbent LEC’s central office and the loop demarcation point at the customer premises.¹¹⁸

In the recent 271 Orders, the Commission was abundantly clear that a separate showing by ILECs with respect to DSL loops is expected.¹¹⁹ Consistent with the *SWBT Texas Order*,

¹¹⁴ *Id.* at ¶ 29.

¹¹⁵ *Bell Atlantic New York Order* at ¶ 87.

¹¹⁶ *Id.*

¹¹⁷ *UNE Remand Order* ¶¶ 102, 190-191, 218. In its *UNE Remand Order*, the FCC also determined that CLECs should have unbundled access to loop make-up information in any incumbent database, system or records to order loops effectively. *Id.* at ¶¶ 426-28.

¹¹⁸ *UNE Remand Order* at ¶ 167.

¹¹⁹ *Bell Atlantic New York Order* at ¶ 330 (“we would find it most persuasive if future applicants under section 271 . . . make a separate and comprehensive evidentiary showing with respect to the provision of xDSL-capable

Verizon has chosen to demonstrate its provision of non-discriminatory access to xDSL-capable loops through performance measures,¹²⁰ but consistent with what it did in New York, it also seems to promise a separate affiliate in Massachusetts for the provision of advanced services.¹²¹

B. Verizon's Own Data Indicate Problems with its xDSL Performance

Verizon's DSL loop performance is not at parity with the performance it provides itself and does not provide data CLECs with a reasonable opportunity to compete. Nonetheless, Verizon attempts to divert the Commission's attention from its poor performance on xDSL cable loops. First, Verizon suggests that a comprehensive showing on xDSL loops is not necessary.¹²² This suggestion is directly contrary to the Commission's analysis in its latest 271 orders. In New York the Commission indicated that a specific showing on xDSL loops would be required by the Commission in future applications.¹²³ Likewise, in Texas, the Commission made an extensive examination of SBC's provisioning of xDSL-capable loops.¹²⁴ These analyses seriously undercut Verizon's assertion to the contrary.

At the outset, it is essential to stress that these metrics were developed as part of the New York collaborative proceeding. Verizon was fully involved in that collaborative and in fact, initially proposed the metrics that were eventually adopted by the New York and Massachusetts commissions. While DSL metrics were added more recently, they too were vetted fully during the on-going New York collaborative proceeding. While Verizon claims that its DSL performance has been outstanding, Verizon also suggests that CLEC behavior is to blame for its poor performance in some areas. Verizon's assertions that: (1) CLECs do not

loops."); *SWBT Texas Order* at ¶¶ 282-306 (evaluating the evidentiary showing with respect to the provision of xDSL-capable loops).

¹²⁰ *Id.*

¹²¹ Verizon Application at 55-59.

¹²² Verizon Application at 17, n. 20.

¹²³ *Bell Atlantic New York Order* at ¶ 330.

provide Verizon with access to customers to complete repairs; (2) CLECs do not perform adequate acceptance testing; and (3) loop pre-qualification errors are all to blame for its poor performance data,¹²⁵ must be dismissed for the reasons discussed. Each of these issues will be addressed below.

While Verizon now offers these “justifications” for its below par performance, not all of these issues were addressed at the state level. Had Verizon raised, for example, its no access to customer issue or its loop pre-qualification issue, CLECs would have had the opportunity to investigate and test Verizon’s assertions.

At no time did Verizon request that the DSL metrics be changed, reevaluated, or otherwise altered to address the issues that Verizon raises for the first time in its Application with the Commission.¹²⁶ As a result, Verizon’s “explanations” for its poor performance are disingenuous and must be taken in the light they were truly intended – as an excuse for poor performance. Unfortunately, because Verizon bears the burden of proof in this matter, it can not afford to put forward excuses at this juncture.

C. The Data Verizon Relies On is Lacking In Some Important Respects

There are two serious problems that make assessing Verizon’s allegations regarding its poor DSL performance very difficult. First is the lack of carrier-specific reports in Massachusetts. Carrier-specific data is provided to CLECs in New York each month and is currently being provided by Verizon in Pennsylvania and New Jersey. Having carrier specific data, as will be discussed below, is essential to test the validity of Verizon’s claims. Moreover,

¹²⁴ SBC Texas Order at ¶¶ 282-306.

¹²⁵ Verizon Application at 25-26.

¹²⁶ In September, after the oral argument in Massachusetts, Verizon did raise the issue of loop qualification with the Carrier Working Group in New York, but Verizon has not raised the other two issues in the ongoing New York metrics proceeding.

without CLEC-specific data, Rhythms' questions how Verizon will be able to calculate its performance to individual CLECs each month pursuant to the Performance Assurance Plan.

In addition, Verizon's DSL data was never verified by KPMG. The DSL metrics were accepted in New York in February, 2000 and Verizon began reporting on them in January of 2000 in New York and soon thereafter in Massachusetts. Unfortunately, when KPMG validated the metrics in Massachusetts (and found significant issues with pre-ordering and ordering metrics) it failed to include DSL metrics in the validation process. The record from the MA 271 proceeding is abundantly clear on this point:

Q. [Ms. Scardino] Within the July provisioning data, did you notice that there was DSL -- two-wire DSL performance metrics with data in the July report?

(Pause.)

A.[SEARS] I'm actually sitting here looking on line at the June report, and there are significant number of two-wire xDSL services metrics, including average interval offered, average completed interval, missed appointments, facility missed orders, and installation quality metrics reported. In fact, there are 14 individual metrics where Bell Atlantic reports performance, the number of observations, and some statistical information.

Q. And do you also see that under maintenance and repair there's also data for two-wire xDSL services? It looks like they're about the same number. It's on Page 11 of 14 of that June data.

A. [SEARS] I'm actually having trouble finding those metrics, but I'll take your word that they're there.

Q. So do you know why KPMG did not replicate the DSL -- the two-wire xDSL services metrics?

(Pause.)

WITNESS SEARS: Can you repeat Ms. Scardino's last question.

(Question read.)

A. [SEARS] We did not replicate the two-wire services metrics in our retest because we were retesting those metrics that we had tested for December of 1999 through February of 2000. The xDSL metrics were not available in December through February of 2000. As a consequence, we were looking for fixes in the metrics that we had problems in, so we did not retest -- we did not test the xDSL metrics in March or July, with March or July data.

Q. I believe there was testimony that one metric was replicated or --

A. [SEARS] No, that was another misstatement. Because these metrics were not available in February, we didn't find any problems with them, they were added and we replicated -- we retested with March and July data only those metrics that were available in February. The xDSL metrics were not available in February.¹²⁷

* * *

Thus, with neither carrier-specific data nor data that has been verified by a third-party, it is extremely difficult to assess Verizon's statements regarding some of its "explanations" for its below par performance on certain DSL metrics.

D. Verizon's On-Time Performance Data is Telling for What it Fails to Show

In its application, Verizon claims that its performance "measures show that Verizon's on-time performance for DSL loops is excellent."¹²⁸ In the Guerard/Canny Declaration at Attachment M, Verizon provides the Commission with some data that purports to demonstrate that Verizon's on-time DSL loop performance is indeed excellent. What is important to note, however, is what that data does not reveal. These measures do not take account of when a CLEC changes the due date at Verizon's request. Often, if Verizon will not meet the established interval for one reason or another, they will ask CLECs to re-submit the LSR, thus starting the clock all over again. While Verizon's provisioning data does appear to be better than its maintenance and repair data, re-starting the clock has a positive impact on Verizon's provisioning performance that skews the results and overstates Verizon's on-time record. In

addition, as discussed above, the metrics only begin once Verizon has determined it has a valid service order, skewing Verizon's performance further.

E. Verizon's "No Access" Claims Are Confusing

With regard to its allegations relating to customer access, Verizon asserts that "one issue that has a disproportionate impact on DSL loops is that Verizon frequently cannot gain access to the premises of the customer to complete a repair."¹²⁹ That may or may not be true as a general matter, but it is absolutely not the case for Rhythms. Rhythms' NOC is open seven days a week, thus it is available to assist Verizon with customer access situations. Performing repairs on Saturdays is not a problem – Rhythms does not decline Saturday appointments for maintenance and repairs and does not limit repair times to between 9:00am and 5:00pm.

In assessing Verizon's data, moreover, it is difficult to determine which metrics are affected by this "no access" issue and which are not. For example, the metric "% Missed Repair Appointment – Loop (MR-3-01)" is one of the metrics that specifically excludes no access situations.¹³⁰ The carrier-to-carrier data indicate that Verizon's performance is out of parity on that metric for the last several months. Because the metric "Mean Time to Repair – Loop Trouble (MR-4-02)" has the same number of observations as "Missed Repair Appointment – Loop", but specifically does not exclude "no access" situations,¹³¹ the data initially suggested to Rhythms that there were zero "no access" situations during this reporting period for loop repairs.

¹²⁷ Tr. at 5185-5189

¹²⁸ Verizon Application at 23.

¹²⁹ Verizon Application at 25 ("Obtaining access to a customer's premises is a particular problem with DSL loops because there often are three companies involved – Verizon, the CLEC, and the Internet service provider ("ISP") that buys service from the CLEC and that actually deals with the customer"). It is interesting, given Rhythms' issues with TISOC hours, that Verizon claims that "[i]t is not at all unusual for a CLEC to provide Verizon with access arrangements only between 9:00 am and 5:00pm, which severely constrains Verizon's opportunity to repair the loop and meet the appointment." Lacouture/Ruesterholz Declaration at ¶ 106.

¹³⁰ See, New York State Carrier-to-Carrier Guidelines Performance Standards Reports, February 2000 (adopted by the MA DTE for Massachusetts) at Attachment B to the Guerard/Canny Declaration, at 67.

¹³¹ *Id.* at 69.

Upon further inquiry, however, it appears that for some metrics where exclusions are specifically permitted, Verizon inconsistently applies the exclusion. In some instances the exclusion is taken in the numerator only and in others, in both the numerator and denominator. Rhythms, therefore, has no way of testing the veracity of Verizon's statement relating to "no access" other than to reiterate that Rhythms does not restrict maintenance and repair times as Verizon alleges. If this indeed is an issue, Verizon should offer CLEC-specific data on the frequency of "no access" situations.

F. Rhythms Performs Acceptance Testing on All Loops

In its Application, Verizon alleges that there has been an "apparent failure by some CLECs to perform properly or to heed the results of acceptance testing."¹³² As a result, according to Verizon, CLECs accept loops that should not have been accepted and then open trouble tickets on DSL loops inappropriately. Verizon's inquiry into the trouble ticket then reveals that the problem was with improper acceptance testing or are closed with no trouble found.¹³³

Upon hearing this allegation during the state proceeding, Rhythms verified that it performs acceptance testing on all of the loops that Verizon contacts Rhythms to test.¹³⁴ Rhythms does not accept loops inappropriately and then open trouble tickets on them.¹³⁵ In fact, Rhythms has an internal checklist that it runs through with the Verizon technician. All criteria must be met before Rhythms accepts the loop. After verifying this information with its own

¹³² Verizon Application at 25.

¹³³ Verizon Application at 25-26.

¹³⁴ Williams Declaration at ¶¶ 44-46.

¹³⁵ *Id.* at ¶ 45.

internal business people, Rhythms approached Verizon with the information. Verizon confirmed that Rhythms was not a CLEC that did not perform acceptance testing.¹³⁶

With nothing more than Rhythms' internal check and then validation from Verizon, Rhythms cannot investigate further whether these allegations concerning acceptance testing have any merit. If Verizon had provided carrier-specific performance reports in Massachusetts, as it did in New York and is doing now in Pennsylvania and New Jersey, attempting to verify this allegation would not be an issue. Without these reports, however, which CLECs requested from Verizon during the state proceeding, Rhythms has no way of addressing the issue beyond confirmation of its own practices. Had KPMG verified Verizon's data, this issue may have been addressed and resolved far earlier. Thus, Verizon's statements and data are wholly untested, and cannot be relied upon by this Commission.

G. Verizon's Allegations Relating Loop Qualification Are More Complicated Than Presented by Verizon

Verizon suggests that "CLECs include loops that have not been pre-qualified in their mix of DSL orders."¹³⁷ Verizon is only partially correct when it states that "for loops that are not pre-qualified" it adds extra days to the interval.¹³⁸ There are three types of loop qualification that can be performed by CLECs. The first is a mechanized query that Rhythms performs on all loops. The second is a manual query that is subject to a two-day interval. The third is an engineering query, which is a three-day interval. Verizon states that its reported performance results are skewed by CLECs failure to perform loop pre-qualification. This statement is somewhat misleading.

¹³⁶ *Id.* at ¶ 44.

¹³⁷ Verizon Application at 24.

¹³⁸ Verizon Application at 24.

First, as stated above, Rhythms performs a mechanized query on all loops before submitting an order. This means that for loops that pass this first step, Rhythms submits an LSR to Verizon to process and it is not necessary for Verizon to do any additional prequalification work. At this point, Verizon need only process the order in the standard 6 day interval. Because the mechanized database is not populated with all necessary information, it is sometimes necessary for Rhythms to follow-up with a manual query in order to determine whether Rhythms can serve the customer. Because Verizon has yet to develop a pre-order interface to allow CLECs to submit manual queries *before* submitting an order, CLECs have no choice but to submit an LSR for the actual order so that a manual query can be performed. Verizon, who developed this practice, accepts the LSR as a request to perform a manual query and adds *two* days to the 6 day interval. The same is true for the engineering query, which is more expensive and not done as frequently, but adds *three* days to the interval.¹³⁹

As a result, Verizon's claims that *CLEC* behavior relating to loop prequalification skews its performance results is somewhat misleading. Had Verizon developed the necessary pre-order interfaces, CLECs would not need to submit an LSR in order to perform the manual query (which adds just two days, not the three days that Verizon claims).

H. Verizon's Overall Maintenance & Repair Performance is Poor

Verizon's carrier-to-carrier reports uniformly report maintenance and repair performance that is way out of parity with the service that Verizon provides to itself. Verizon may have "explanations" for this disparity, but the data is collected by Verizon and was put forward by Verizon in support of its 271 application. These maintenance and repair metrics reveal with

¹³⁹ Because of the cost of an engineering query, Rhythms generally will only perform a manual query, thus adding two days to the interval.

clarify that Rhythms is not seeking “an unattainable level of absolute perfection”¹⁴⁰ as Verizon asserts. Instead, Rhythms would like to at least receive parity with Verizon. An analysis of Verizon’s maintenance and repair data, however, reveals that it falls far short of parity, much less perfection.

V. CHECKLIST ITEMS 2 & 4 – LINE SHARING

A. Early Indications are that Verizon’s Line Sharing Performance is Unsatisfactory

In the *Line Sharing Order*, the Commission determined that the high-frequency portion of the local loop is a separate UNE subject to the unbundling requirements of the Act and subsequent rules and regulations.¹⁴¹ Pursuant to the *Line Sharing Order*, Verizon was to have been providing line sharing by June 6, 2000, however, the June 6, 2000 deadline passed without the implementation of line sharing in Massachusetts. As Rhythms has begun to implement line sharing in Massachusetts and in other Verizon states, it has experienced some serious problems. To resolve these problems, Rhythms and Verizon have implemented regular calls to address and come to resolution on many outstanding issues. While this type of collaboration should be applauded, there is a concern that Verizon’s response has been better than it otherwise would be because of its pending 271 application. In fact, Rhythms has learned that Verizon is putting all of its resources in to addressing line sharing issues in Massachusetts, resulting in even worse performance and readiness in Verizon’s other states, including New York.¹⁴²

¹⁴⁰ Verizon Application at 10.

¹⁴¹ See 47 C.F.R. § 51.319.

¹⁴² Williams Declaration at ¶ 42.

B. Verizon's Central Offices Were Not Ready for Line Sharing Until Well After June 6th

First, Verizon is not processing Rhythms line sharing orders on time and only last week completed the necessary central office wiring to implement line sharing in Massachusetts.¹⁴³ When the Commission ordered ILECs to provide line sharing by June 6, 2000, CLECs and Verizon devised an implementation schedule as part of the New York collaborative proceeding.¹⁴⁴ This implementation schedule provided Verizon with CLEC priorities for completion of the necessary central office pre-wiring that Verizon must perform so that each central office is ready for line sharing.¹⁴⁵ Verizon represented to Rhythms that its central office pre-wiring was complete in Massachusetts by June 6th.¹⁴⁶ Yet, Rhythms has now learned that Verizon's central office pre-wiring was not complete. Rhythms found that Verizon had either (1) not done the wiring or done it incorrectly, or (2) had not yet inventoried the wiring or had inventoried it incorrectly.¹⁴⁷ For instance, Rhythms had submitted five orders – four of which were rejected or had troubles reported, because the Brighton, Massachusetts central office was not wired as Verizon had indicated it was. It was only on the afternoon of October 10, that Verizon reported that the central office pre-wiring work was complete for Massachusetts, however, Verizon reported that New York was not 100% complete and that many other states in the Verizon footprint were no better than 70% complete.¹⁴⁸

¹⁴³ *Id.* at ¶ 39.

¹⁴⁴ *Id.* at ¶ 37.

¹⁴⁵ Because Rhythms has chosen to place its splitters in its collocation cage, every central office in the Verizon footprint where Rhythms is collocated needed to be pre-wired. The wiring work, which Rhythms paid for, requires Verizon to place cables and pairs from Verizon's MDF to Rhythms splitter in its collocation cage. That way when combined voice and data traffic comes into the central office, it is routed from Verizon's MDF to Rhythms' splitter where the voice traffic is split off from the data traffic and sent back to Verizon's MDF for further routing. (See, Attachment C to Williams Declaration). Once this pre-wiring work is complete, Verizon's cable and pair inventory must be updated to reflect that those cable and pairs can now support line sharing.

¹⁴⁶ Williams Declaration at ¶ 37.

¹⁴⁷ *Id.* at ¶ 39.

¹⁴⁸ *Id.*

Even with the completion of central office pre-wiring, unresolved issues remain relating to the inventorying of the cables and pairs. Rhythms learned recently that Verizon's inventory system has not been populated with all of the latest cable and pair assignment information.¹⁴⁹ Even if the wiring is done correctly, if this inventory has not been populated, Rhythms cannot order line sharing, because the cable and pair that have been pre-wired to its splitter cannot be located and do not indicate that they support line sharing.¹⁵⁰

In addition there are serious systems issues that need to be addressed. All OSS for line sharing is manually processed, and will continue to be manual until well into 2001. Moreover, Rhythms has received multiple firm order commitments (FOCs) on its orders and due dates well beyond the standard interval.¹⁵¹ All of these issues, combined with the complete lack of knowledge of Verizon's representatives concerning line sharing suggests that Verizon is not prepared to provide line sharing on any scale, much less a significant one.¹⁵²

C. The Delays and Problems with Line Sharing Have Significant Competitive Implications for Rhythms

Verizon already has suggested that the difficulties it is having right now with line sharing are "start-up" problems that will naturally be resolved as more orders are placed by CLECs. While that response may seem very reasonable, the implications of it are potentially crippling for Rhythms.

Rhythms' ISP partners have been anxiously awaiting the promise of line shared orders for some time. Following the issuance of the FCC's *Line Sharing Order* and following line sharing arbitrations in a number of Verizon states, including Massachusetts, both Rhythms and its ISP partners fully expected that Verizon would be ready to fulfill its obligations

¹⁴⁹

Id.

¹⁵⁰

Id. at ¶ 40.

¹⁵¹

Id. at ¶ 41.

under the Order.¹⁵³ Because of the repeated failure of Verizon to timely process and install Rhythms' line sharing orders, Rhythms' ISP partners (many of whom partner with different DSL providers, including potentially Verizon, itself) are not yet convinced that line sharing with Verizon is a realistic opportunity.¹⁵⁴

V. CHECKLIST ITEMS 2 & 4 – SUBLOOPS

As discussed in section I.A. above, Verizon's tariff offering on subloop unbundling is at odds with the Commission's directives in the *UNE Remand Order*. This specific issue is being addressed by the Massachusetts DTE in a proceeding that will not result in a final order until after the 271 process is complete at the federal level. Consequently, if the Commission determine that Verizon's subloop offering does not comport with the *UNE Remand Order*, the Commission must deny Verizon's Application.

VI. PERFORMANCE ASSURANCE PLAN

A. The Massachusetts Performance Assurance Plan Is Lacking In DSL and Line Sharing Metrics

The Performance Assurance Plan (PAP) that Verizon submitted and was approved in Massachusetts is based on Verizon's New York PAP.¹⁵⁵ The Massachusetts PAP as proposed by Verizon and adopted by the Massachusetts DTE is insufficient to ensure that Verizon's DSL and line sharing performance will not deteriorate after receiving FCC approval to offer in-region interLATA service in Massachusetts.

The New York PAP, upon which the Massachusetts PAP is based, includes only four DSL measurements and bill credits that account for a mere one-tenth of one percent of the total

¹⁵² *Id.* at ¶¶ 36 & 43.

¹⁵³ *Id.* at ¶ 43.

¹⁵⁴ *Id.*

¹⁵⁵ Verizon Application at 72-73.

dollars at risk in the PAP. For the fastest growing sector of the telecommunications market, this hardly seems to protect data CLECs from potential discrimination after Verizon receives its 271 approval in Massachusetts. Moreover, currently the Massachusetts PAP (and the New York PAP, for that matter) contain no line sharing metrics.

Under the New York PAP, Verizon's wholesale performance with regard to DSL services is measured by only four metrics, all contained within the Critical Measures subgroup. As a result, only four DSL-related metrics are currently included in the New York PAP Critical Measures, and thus also included in the Massachusetts Plan. These are: "PO-8-01: Manual Loop Qualification Response Time," "PO-8-02: Engineering Record Request Response Time," "PR-4-14 through PR-4-18: Missed Appointment metrics for DSL Services," and "PR-6-01: Installation Troubles for DSL capable loops reported within 30 days." For the first two of these metrics, Manual Loop Qualification Response Time and Engineering Record Request Response Time, Verizon has neither provided data by which to judge its performance nor stated when it expects to have such data available. Thus, for all practical purposes, those two metrics are now and will indefinitely remain useless for gauging the wholesale DSL services being provided by VZ-MA. Further, Verizon cannot claim that these metrics support its application.

B. The Commission Must Not Approve Verizon's Application With An Inadequate Performance Assurance Plan

As detailed in Rhythms Motion for Reconsideration of the DTE's Order Approving the PAP,¹⁵⁶ the Massachusetts's PAP is insufficient to prevent backsliding on DSL issues unless DSL is included as a separate a MOE category to the Massachusetts PAP. Similarly, without additional Critical Measures for DSL and line sharing, the Massachusetts PAP is seriously defective. As currently drafted, the Commission cannot find that the Massachusetts PAP


adequately protects against backsliding by Verizon in the provision of advanced data services once it gains 271 approval.

VII. CONCLUSION

From the evidence Verizon provided to the Commission, it is clear that market for advanced data services is not fully open to competition in Massachusetts. Verizon has not met its nondiscrimination obligations in some very important respects. As a result, the Commission has not choice but to deny Verizon's Application to provide interLATA services in the state of Massachusetts.

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Dated: October 16, 2000

I, Leslie LaRose, do hereby certify that on this 16th day of October, 2000, that I have served a copy of the foregoing document via * messenger and U.S. Mail, postage pre-paid, to the following:


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